

MANDATE

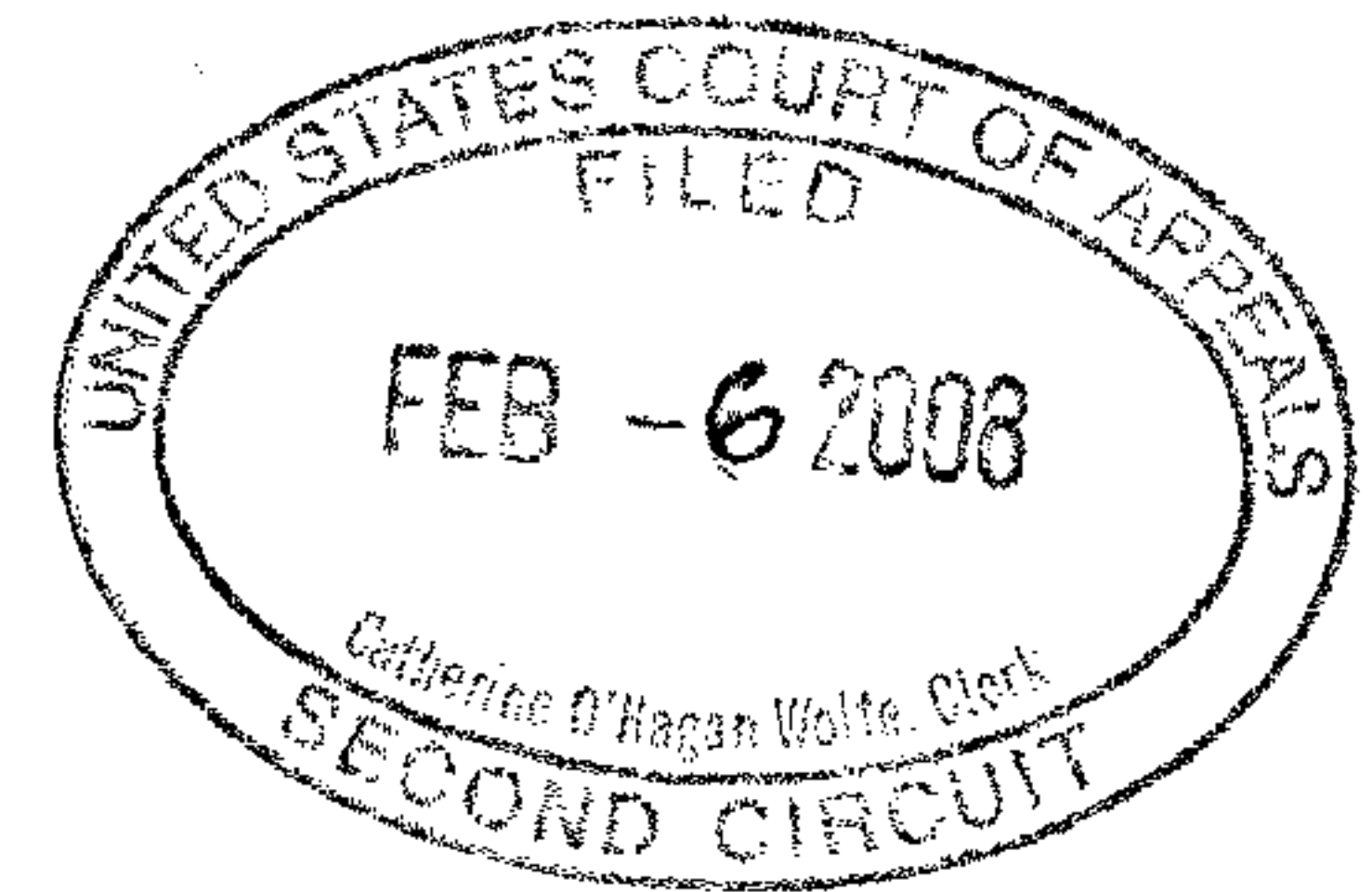
S.D.N.Y.-N.Y.C.  
07-cv-9393  
Wood, C.J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 6<sup>th</sup> day of February, two thousand eight,

Present:

Rosemary S. Pooler,  
*Circuit Judge,*  
Lewis A. Kaplan,\*  
*District Judge.\*\**



Herbert Lewis,

*Plaintiff-Appellant,*

v.

07-5122-pr

Acting Commissioner Lucien J. Leclaire, et al.,

*Defendants-Appellees.*

Appellant, *pro se*, moves to proceed *in forma pauperis* ("IFP") and for appointment of counsel in his appeal of the district court's dismissal of his 42 U.S.C. § 1983 action. Upon due consideration, it is hereby ORDERED that the motions are DENIED and the appeal is DISMISSED because it lacks an arguable basis in fact or law. *See Heck v. Humphrey*, 512 U.S. 477, 487 (1994); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

A TRUE COPY

Catherine O'Hagan Wolfe, Clerk

by

*Debra A. Livingston*  
Deputy Clerk

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

By: *Franklin*

\* Honorable Lewis A. Kaplan, United States District Court for the Southern District of New York, sitting by designation.

\*\* Honorable Debra A. Livingston has recused herself from consideration of this appeal. The remaining two panel members, who are in agreement, are deciding this motion pursuant to Second Circuit Local Rule 0.14(b).

SAO-PR

Issued as Mandate:

APR 11 2008



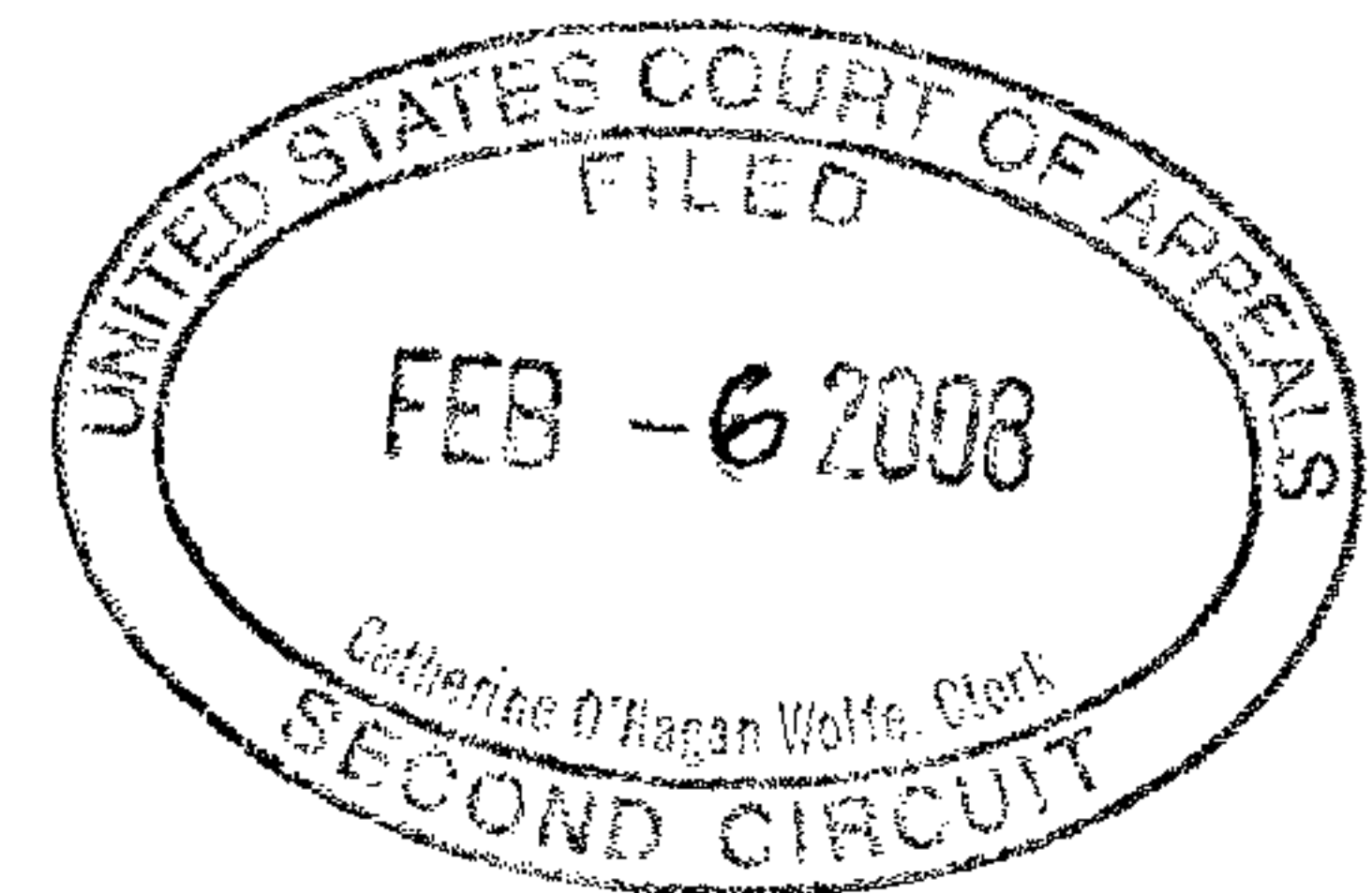
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THE MANDATE, CONSISTING OF  
ITEMS BELOW, HAS BEEN RECEIVED  
( ) OPINION ( ) STATEMENT OF COSTS  
(X) ORDER  
RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

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